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**COMPATIBILITY DETERMINATION**

**CAPE HATTERAS ELECTRIC COOPERATIVE**

**AMENDMENT TO RIGHT-OF-WAY  
PERMIT ES0852**

**on**

**PEA ISLAND NATIONAL WILDLIFE REFUGE**

**DARE COUNTY, NORTH CAROLINA**



**U. S. FISH AND WILDLIFE SERVICE  
ALLIGATOR RIVER NATIONAL WILDLIFE REFUGE COMPLEX  
MANTEO, NORTH CAROLINA**

**APRIL 2013**

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U. S. FISH AND WILDLIFE SERVICE  
PEA ISLAND NATIONAL WILDLIFE REFUGE

**COMPATIBILITY DETERMINATION**

**Use:** Cape Hatteras Electric Cooperative Request for Amendment to Right-of-Way Permit ES-0852 on Pea Island National Wildlife Refuge, Dare County, North Carolina

**Refuge Name:** Pea Island National Wildlife Refuge (Refuge)

**Establishing and Acquisition Authority (ies):** Executive Order 7864 - April 12, 1938

**Refuge Purpose(s):** “ — as a Refuge and breeding ground for migratory birds and other wildlife — “

**National Wildlife Refuge System Mission:**

To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

**Description of Use:**

Cape Hatteras Electric Cooperative (CHEC) is requesting an amendment to their right-of-way (ROW) Permit ES-0852. The Permit has been amended on five occasions since issued in 1966. CHEC is a non-profit utility providing electric service to Hatteras Island, including facilities owned and operated by Pea Island National Wildlife Refuge. This request involves the relocation of utility poles in two locations within the Refuge due to storm-induced accelerated beach erosion.

On August 27, 2011, Hurricane Irene caused significant damage to NC Highway 12, creating a new inlet and destroying parts of NC-12 and CHEC's 115 kV electric transmission system. Permission to proceed with the emergency measures to repair and replace the line was obtained with the understanding that the easement modification would be applied for at a later time. In response to damage to NC-12, NCDOT spanned the inlet with temporary bridging and began to formulate plans for a replacement bridge. CHEC has worked closely with NCDOT in the planning of the new bridge and this easement modification request is intended to provide NCDOT adequate clearance for construction.

In late 2012 Hurricane Sandy and subsequent northeasters severely eroded the beach, dunes, and NC-12 just north of Mirlo Beach in an area known as the S-Curves. The eroded and damaged features protected CHEC's 115 kV transmission line that provides electric service to Hatteras and Ocracoke Islands. Emergency measures were taken immediately following the storms to protect several structures vulnerable to ocean tides and overwash. To ensure reliability for island residents, an easement modification is necessary to relocate the transmission line further west.

CHEC is preparing an environmental report, as required by the Rural Utilities Service. This report has been commissioned and will be completed prior to construction. As indicated by the

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literature in the "References" section, a number of reports and assessments described environmental conditions as well as coastal processes affecting the area.

## **Availability of Resources:**

Preparation of the Compatibility Determination (CD), coordination with other offices, public involvement, and assembly of the Right-of-Way Permit package requires substantial Refuge staff time. Extensive consultation with the Division of Ecological Services Raleigh Field Office and an Intra-Service Section 7 Endangered Species Act Biological Evaluation will be necessary, as endangered species occur in the project vicinity. Cultural and archaeological resource consultation is also required. Some resources will be required for monitoring the project during construction.

Expenditures for equipment, facilities, improvements, maintenance, or other materials and supplies are not anticipated for this project

## **Anticipated Biological Impacts of Use:**

CHEC is proposing to relocate 2 sections of electric transmission line as a result of beach erosion, inlet formation and dynamics, and ocean overwash. The S-Curves/Mirlo Beach section of the transmission line is in close proximity to NC Highway 12 and is threatened by overwash from the Atlantic Ocean and flooding from Pamlico Sound to the point that electric service to Hatteras Island residents could be disrupted with the next northeaster or stronger storm. This southern section extends northward from the southern boundary at the village of Rodanthe until intersecting existing ROW adjacent to NC Highway 12. The relocated section is approximately 3,342 feet long. The northern section is at the Pea Island Inlet (New Inlet) area. The relocation begins just south of the southern dike for South Pond and extends southward for a distance of about 3,020 feet. Both relocation sections occur on the west side of NC 12. Proposed new ROW width is 50 feet. The S-Curves utility relocation will result in about 3.83 acres of new ROW and about 2.91 acres of abandoned ROW. Current estimates show the Pea Island Inlet utility relocation will result in about 1.83 acres of new utility ROW and about 1.77 acres of abandoned ROW. The abandoned ROW will revert back to the refuge. Combined effects are about 5.66 acres in new ROW and about 4.68 acres in abandoned ROW for a net difference of about 0.98 additional acres under utility easement.

### Short Term Impacts

Adverse impacts resulting from the proposed electric utility line relocation are expected to be short-term and minimal. The greatest impact will result in traversing the new ROW with construction equipment. Some grassland and shrub habitat will be replaced with a grassland community within the ROW. Within a relatively short period of time, wildlife displaced during construction will resume full use of the area. Increases in bird mortality from striking the power line in a new location are not anticipated due to the relatively short distance between the new location and old location.

### Long-term Impacts

Long-term impacts from the relocation will include those associated with maintaining the ROW in a plant community that will not jeopardize the utility poles during prescribed burns. In most cases this will result in a grassland community. Species dependent upon maritime shrub communities will have less of this habitat type. However, the anticipated plant community shift

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is expected to be insignificant. Bird strikes with the electric lines will continue. Increases in number of strikes are not anticipated since the line will not change in size or height. The magnitude and frequency of use is not expected to increase in the future.

## Cumulative Impacts

The utility corridor ROW will be in addition to the NC 12 Highway ROW. The old utility ROW will be abandoned and all utility equipment, materials, and debris will be removed. There should be little to no net change in the amount of refuge land affected by the utility ROW. Other utility lines will be co-located within the NC 12 ROW or the CHEC ROW.

**Public Review and Comment:** Notice of this draft Compatibility Determination was released to local newspapers, local radio and television stations, the Dare County Public Library, and will be posted on the Refuge web page as well as the information desk in the Gateway Visitors Center for a period of no less than 14 days. Comments received and Responses will be included as Appendices within this document.

## **Determination:**

\_\_\_\_\_ Use is Not Compatible

  X   Use is Compatible With the Following Stipulations

**Stipulations Necessary to Ensure Compatibility:** These stipulations were prepared to ensure that the Refuge purpose and the NWRS mission can be achieved with the proposed utility ROW modifications. Stipulations include:

1. Abandoned utility easement areas shall be restored to a condition as good or better than before the relocation and CHEC shall relinquish all claims to the abandoned easement areas.
2. CHEC shall ensure full compliance with all terms and conditions within or attached to Right-of-Way Permit ES-0852 and all modifications or amendments thereof.
3. Monitoring and control of exotic and invasive species is required. Stipulation #8 of Permit ES-0852 prohibits the use of herbicides and pesticides without prior approval by the Regional Director. Notice shall be provided to the Refuge so as to allow sufficient time for coordination and necessary approvals before applying any herbicide, pesticide, or any other chemical control agent.
4. The U. S. Fish and Wildlife Service is responsible for the conservation and protection of migratory birds from harm or harassment within the Refuge and the Presidential Proclamation Boundary (Migratory Bird Treaty Act {MBTA: 16 USC § 703 et seq.}). This Proclamation established certain lands and waters within and adjacent to, and in the vicinity of the Refuge as a closed area. In the event that construction is initiated during the wildlife nesting season surveys will be done to assess nesting activity. If nests are found they will be clearly marked and construction/maintenance activities shall be modified as directed by the Refuge Manager or designee to protect wildlife nesting activities.

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5. Fifteen terms and conditions are specified in 50 CFR 29.21-4. By reference, these terms and conditions are hereby considered to be a part of this Compatibility Determination and will be included (or minor variations thereof) in the ROW Permit.
6. Prior to beginning construction, CHEC shall provide proof that all other required Federal and State permits were acquired.

**Justification:** The proposed changes in utility ROW and relocation of utility lines will result in minimal and mostly short-term impacts on refuge biological resources. Similarly, the change in ROW will neither materially interfere with nor detract from the mission of the National Wildlife Refuge System or the purpose for which the Refuge was established. CHEC will employ many strategies to avoid and minimize impacts to sensitive areas during construction and maintenance. These actions will minimize the level of impact on the Refuge resources. Assuming full compliance with the Stipulations in this CD, the terms and conditions in ROW Permit ES-0852 and subsequent modifications and amendments, there should be no net loss in habitat quantity or quality with this ROW permit modification.

## NEPA Compliance:

Categorical Exclusion  X .  
Environmental Assessment \_\_\_\_\_.  
Environmental Impact Statement \_\_\_\_\_.  
FONSI \_\_\_\_\_.

## References

\*Federal Highway Administration & North Carolina Department of Transportation. 2010. Record of Decision for NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) over Oregon Inlet. Federal-Aid No. BRS-2358(15). NCDOT Project Definition: 32635. TIP Project No. B-2500. Dare County, North Carolina

\*Federal Highway Administration & North Carolina Department of Transportation. 2013. Environmental Assessment for Pea Island Long-Term Improvements Bonner Bridge Replacement Project Phase IIa. Federal-Aid No. BRNFH-0012(55). NCDOT Project Definition: 32635. STIP Project No. B-2500A. Dare County, North Carolina

Riggs, S. R., Ames, D. V. , Culver, S. J. , Mallinson, D. J., 2011b, The Battle for North Carolina's Coast: Evolutionary History, Present Crisis & Vision for the Future. The University of North Carolina Press, Chapel Hill, NC. 142 pp.

U.S. Fish and Wildlife Service. 2006. Pea Island National Wildlife Refuge Comprehensive Conservation Plan. United States Department of Interior, Southeast Region, Atlanta, GA. 192 pp.

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**Signatures:**

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Signature:

Refuge Manager:

(Signature and Date)

Review:

## Regional Compatibility

(Signature and Date)

Review:

Refuge Supervisor:\_\_\_\_\_

(Signature and Date)

Concurrence: Regional Chief:

(Signature and Date)

Mandatory 10- or 15-Year Re-evaluation Date:

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# **APPENDIX I**

## **EVIDENCE OF PUBLIC NOTICE**

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# **APPENDIX II**

## **COMMENTS**